

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SHARON WILSON,

Plaintiff,

v.

THE KROGER CO., SPIVEY
JUNCTION STATION, LLC,
PHILLIPS EDISON & COMPANY,
LTD, and JOHN DOES 1-3,

Defendants.

CIVIL ACTION NO. _____

Removed from State Court of Gwinnett
County, Civil Action File No. 23-C-
02937-S4

JURY TRIAL DEMANDED

DEFENDANT THE KROGER CO.'S NOTICE OF REMOVAL

COMES NOW, Defendant The Kroger Co. (“Defendant”), by and through the undersigned counsel, and hereby files this Notice of Removal, showing the Court as follows:

1.

On May 1, 2023, this action was filed in the State Court of Gwinnett County, said county being part of the Northern District of Georgia. See N.D.G.A. Local Rule 3.1(A), LR App. A, I. As such, the Atlanta Division of the United States District Court for the Northern District of Georgia is the proper venue for removal in this instance, as set forth further below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties, and the amount in controversy.

3.

The matter in dispute exceeds the statutory amount in controversy of \$75,000.00, exclusive of interest and costs, as Plaintiff demanded, in writing, a sum of one hundred thousand dollars (\$100,000.00) to resolve Plaintiff's claims alleged against The Kroger Co. (See Exhibit A, Plaintiff's Demand.)

4.

(a) At the time of the commencement of this action in the State Court of Gwinnett County, upon information and belief, Plaintiff Sharon Wilson was and is now a citizen of Georgia.

(b) At the time of the commencement of this action in the State Court of Gwinnett County, Defendant Kroger was and is still now a foreign corporation, organized and existing under the laws of the State of Ohio with its principal place of business in Ohio, and thus a citizen of Ohio.

5.

A true and correct copy of all process, pleadings, and orders served upon Defendant in this action are attached hereto as Exhibit B.

6.

The instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within thirty (30) days after the receipt by Defendant's counsel of Plaintiff's Summons and Complaint, attached as part of Exhibit B.

7.

Furthermore, the instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within one (1) year of the commencement of the action.

8.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

9.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. §§ 1391 and 1441, and N.D.G.A. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in

the State Court of Gwinnett County, which is part of the Atlanta Division. See N.D.G.A. Local Rule 3.1(A), LR App. A, I.

10.

As required by 28 U.S.C. § 1446(d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this Notice of Removal with the Clerk of the State Court of Gwinnett County.

WHEREFORE, Defendant The Kroger Co. respectfully requests this action proceed in this Court as an action properly removed thereto.

Respectfully submitted, this 8th day of June, 2023.

**GRAY, RUST, ST. AMAND,
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/s/ Alexander D. Perwich III
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Alexander D. Perwich III
Georgia State Bar No.: 622240
Counsel for Defendant The Kroger Co.

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically submitted the foregoing pleading, **DEFENDANT THE KROGER CO.'S NOTICE OF REMOVAL** to the Clerk of Court using the CM/ECF system, which will automatically send electronic mail notice regarding such filing to all counsel of record who are CM/ECF participants and mailed by United States Postal Service, first class postage prepaid, a paper copy of the same document to counsel of record who are non-CM/ECF participants. Counsel of record is as follows:

Adam A. Kemmerick, Esq.
FOY & ASSOCIATES, P.C.
3343 Peachtree Road, N.E. Suite 350
Atlanta, Georgia 30326
Counsel for Plaintiff

This is to further certify that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1, and is prepared in Times New Roman 14-point font.

This the 8th day of June, 2023.

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